VIRGINIA ACTS OF ASSEMBLY -- 2020 SESSION

CHAPTER 546

An Act to amend and reenact §§ 46.2-341.12, as it is currently effective and as it may become effective, 46.2-341.14, as it is currently effective and as it may become effective, 46.2-341.14:01, 46.2-1708, as it may become effective, and 46.2-1709, as it may become effective, of the Code of Virginia and the second and third enactments of Chapter 750 of the Acts of Assembly of 2019, relating to commercial driver's licenses; entry-level driver training.

[S 290]

Approved March 31, 2020

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-341.12, as it is currently effective and as it may become effective, 46.2-341.14, as it is currently effective and as it may become effective, 46.2-341.14:01, 46.2-1708, as it may become effective, and 46.2-1709, as it may become effective, of the Code of Virginia are amended and reenacted as follows:

§ 46.2-341.12. (For expiration date, see Acts 2019, c. 750, cl. 3) Application for commercial driver's license or commercial learner's permit.

A. Every application to the Department for a commercial driver's license or commercial learner's permit shall be made upon a form approved and furnished by the Department, and the applicant shall write his usual signature in ink in the space provided. The applicant shall provide the following information:

1. Full legal name;

2. Current mailing and residential addresses;

3. Physical description including sex, height, weight, and eye and hair color;

4. Year, month, and date of birth;

5. Social security number;

6. Domicile or, if not domiciled in the Commonwealth, proof of status as a member of the active duty military, military reserves, National Guard, active duty United States Coast Guard, or Coast Guard Auxiliary pursuant to 49 U.S.C. § 31311(a)(12); and

7. Any other information required on the application form.

The applicant's social security number shall be provided to the Commercial Driver's License Information System as required by 49 C.F.R. § 383.153.

B. Every applicant for a commercial driver's license or commercial learner's permit shall also submit to the Department the following:

1. A consent to release driving record information;

2. Certifications that:

a. He either meets the federal qualification requirements of 49 C.F.R. Parts 383 and 391, or he is exempt from or is not subject to such federal requirements;

b. He either meets the state qualification requirements established pursuant to § 52-8.4, or he is exempt from or is not subject to such requirements;

c. The motor vehicle in which the applicant takes the skills test is representative of the class and, if applicable, the type of motor vehicle for which the applicant seeks to be licensed;

d. He is not subject to any disqualification, suspension, revocation or cancellation of his driving privileges;

e. He does not have more than one driver's license;

3. Other certifications required by the Department;

4. Any evidence required by the Department to establish proof of identity, citizenship or lawful permanent residency, domicile, and social security number notwithstanding the provisions of § 46.2-328.1 and pursuant to 49 C.F.R. Part 383;

5. A statement indicating whether (i) the applicant has previously been licensed to drive any type of motor vehicle during the previous 10 years and, if so, all states that licensed the applicant and the dates he was licensed, and (ii) whether or not he has ever been disqualified, or his license suspended, revoked or canceled and, if so, the date of and reason therefor; and

6. An unexpired employment authorization document (EAD) issued by the U.S. Citizenship and Immigration Services (USCIS) or an unexpired foreign passport accompanied by an approved Form I-94 documenting the applicant's most recent admittance into the United States for persons applying for a nondomiciled commercial driver's license or nondomiciled commercial learner's permit.

C. Every application for a commercial driver's license shall include a photograph of the applicant supplied under arrangements made therefor by the Department in accordance with § 46.2-323.

D. The Department shall disqualify any commercial driver for a period of one year when the records

of the Department clearly show to the satisfaction of the Commissioner that such person has made a material false statement on any application or certification made for a commercial driver's license or commercial learner's permit. The Department shall take such action within 30 days after discovering such falsification.

E. (For expiration date, see Acts 2019, c. 750, cl. 2) The Department shall review the driving record of any person who applies for a Virginia commercial driver's license or commercial learner's permit, for the renewal or reinstatement of such license or permit or for an additional commercial classification or endorsement, including the driving record from all jurisdictions where, during the previous 10 years, the applicant was licensed to drive any type of motor vehicle. Such review shall include checking the photograph on record whenever the applicant or holder appears in person to renew, upgrade, transfer, reinstate, or obtain a duplicate commercial driver's license or to renew, upgrade, reinstate, or obtain a duplicate commercial learner's permit. If appropriate, the Department shall incorporate information from such other jurisdictions' records into the applicant's Virginia driving record, and shall make a notation on the applicant's driving record confirming that such review has been completed and the date it was completed. The Department's review shall include research through the Commercial Driver License Information System established pursuant to the Commercial Motor Vehicle Safety Act and the National Driver Register Problem Driver Pointer System in addition to the driver record maintained by the applicant's previous jurisdictions of licensure. This research shall be completed prior to the issuance, renewal, transfer, or reinstatement of a commercial driver's license or additional commercial classification or endorsement.

The Department shall verify the name, date of birth, and social security number provided by the applicant with the information on file with the Social Security Administration for initial issuance of a commercial learner's permit or transfer of a commercial driver's license from another state. The Department shall make a notation in the driver's record confirming that the necessary verification has been completed and noting the date it was done. The Department shall also make a notation confirming that proof of citizenship or lawful permanent residency has been presented and the date it was done.

E. (For effective date, see Acts 2019, c. 750, cl. 2) The Department shall review the driving record of any person who applies for a Virginia commercial driver's license or commercial learner's permit, for the renewal or reinstatement of such license or permit or for an additional commercial classification or endorsement, including the driving record from all jurisdictions where, during the previous 10 years, the applicant was licensed to drive any type of motor vehicle. Such review shall include checking the photograph on record whenever the applicant or holder appears in person to renew, upgrade, transfer, reinstate, or obtain a duplicate commercial driver's license or to renew, upgrade, reinstate, or obtain a duplicate commercial learner's permit. If appropriate, the Department shall incorporate information from such other jurisdictions' records into the applicant's Virginia driving record, and shall make a notation on the applicant's driving record confirming that such review has been completed and the date it was completed. The Department's review shall include (i) research through the Commercial Driver License Information System established pursuant to the Commercial Motor Vehicle Safety Act and the National Driver Register Problem Driver Pointer System in addition to the driver record maintained by the applicant's previous jurisdictions of licensure and (ii) requesting information from the Drug and Alcohol Clearinghouse in accordance with 49 C.F.R. § 382.725. This research shall be completed prior to the issuance, renewal, transfer, or reinstatement of a commercial driver's license or additional commercial classification or endorsement.

The Department shall verify the name, date of birth, and social security number provided by the applicant with the information on file with the Social Security Administration for initial issuance of a commercial learner's permit or transfer of a commercial driver's license from another state. The Department shall make a notation in the driver's record confirming that the necessary verification has been completed and noting the date it was done. The Department shall also make a notation confirming that proof of citizenship or lawful permanent residency has been presented and the date it was done.

F. Every new applicant for a commercial driver's license or commercial learner's permit, including any person applying for a commercial driver's license or permit after revocation of his driving privileges, who certifies that he will operate a commercial motor vehicle in non-excepted interstate or intrastate commerce shall provide the Department with an original or certified copy of a medical examiner's certificate prepared by a medical examiner as defined in 49 C.F.R. § 390.5. Upon receipt of an appropriate medical examiner's certificate, the Department shall post a certification status of "certified" on the record of the driver on the Commercial Driver's License Information System. Any new applicant for a commercial driver's license or commercial learner's permit who fails to comply with the requirements of this subsection shall be denied the issuance of a commercial driver's license or commercial learner's permit by the Department.

G. Every existing holder of a commercial driver's license or commercial learner's permit who certifies that he will operate a commercial motor vehicle in non-excepted interstate or intrastate commerce shall provide the Department with an original or certified copy of a medical examiner's certificate prepared by a medical examiner as defined in 49 C.F.R. § 390.5. Upon receipt of an appropriate medical examiner's certificate, the Department shall post a certification status of "certified" and any other necessary

information on the record of the driver on the Commercial Driver's License Information System. If an existing holder of a commercial driver's license fails to provide the Department with a medical certificate as required by this subsection, the Department shall post a certification status of "noncertified" on the record of the driver on the Commercial Driver's License Information System and initiate a downgrade of his commercial driver's license as defined in 49 C.F.R. § 383.5.

H. Any person who provides a medical certificate to the Department pursuant to the requirements of subsections F and G shall keep the medical certificate information current and shall notify the Department of any change in the status of the medical certificate. If the Department determines that the medical certificate is no longer valid, the Department shall initiate a downgrade of the driver's commercial driver's license as defined in 49 C.F.R. § 383.5.

I. If the Department receives notice that the holder of a commercial driver's license has been issued a medical variance as defined in 49 C.F.R. § 390.5, the Department shall indicate the existence of such medical variance on the commercial driver's license document of the driver and on the record of the driver on the Commercial Driver's License Information System using the restriction code "V."

J. Any holder of a commercial driver's license who has been issued a medical variance shall keep the medical variance information current and shall notify the Department of any change in the status of the medical variance. If the Department determines that the medical variance is no longer valid, the Department shall initiate a downgrade of the driver's commercial driver's license as defined in 49 C.F.R. § 383.5.

K. Any applicant applying for a hazardous materials endorsement must comply with Transportation Security Administration requirements in 49 C.F.R. Part 1572. A lawful permanent resident of the United States requesting a hazardous materials endorsement must additionally provide his U.S. Citizenship and Immigration Services (USCIS) alien registration number.

L. Notwithstanding the provisions of § 46.2-208, the Department may release to the FMCSA medical information relating to the issuance of a commercial driver's license or a commercial learner's permit collected by the Department pursuant to the provisions of subsections F, G, H, I, and J.

§ 46.2-341.12. (For effective date, see Acts 2019, c. 750, cl. 3) Application for commercial driver's license or commercial learner's permit.

A. No entry-level driver shall be eligible to (i) apply for a Virginia Class A or Class B commercial driver's license for the first time, (ii) upgrade to a Class A or Class B commercial driver's license for the first time, or (iii) apply for a hazardous materials, passenger, or school bus endorsement for the first time, unless he has completed an entry-level driver training course related to the license, classification, or endorsement he is applying for and the training is provided by a training provider. An individual is not required to complete an entry-level driver training course related to the license, classification, or endorsement he is applying for if he is exempted from such requirements under 49 C.F.R. § 380.603.

B. Every application to the Department for a commercial driver's license or commercial learner's permit shall be made upon a form approved and furnished by the Department, and the applicant shall write his usual signature in ink in the space provided. The applicant shall provide the following information:

1. Full legal name;
2. Current mailing and residential addresses;
3. Physical description including sex, height, weight, and eye and hair color;
4. Year, month, and date of birth;
5. Social security number;
6. Domicile or, if not domiciled in the Commonwealth, proof of status as a member of the active duty military, military reserves, National Guard, active duty United States Coast Guard, or Coast Guard Auxiliary pursuant to 49 U.S.C. § 31311(a)(12); and
7. Any other information required on the application form.

The applicant's social security number shall be provided to the Commercial Driver's License Information System as required by 49 C.F.R. § 383.153.

C. Every applicant for a commercial driver's license or commercial learner's permit shall also submit to the Department the following:

1. A consent to release driving record information;
2. Certifications that:

a. He either meets the federal qualification requirements of 49 C.F.R. Parts 383 and 391, or he is exempt from or is not subject to such federal requirements;

b. He either meets the state qualification requirements established pursuant to § 52-8.4, or he is exempt from or is not subject to such requirements;

c. The motor vehicle in which the applicant takes the skills test is representative of the class and, if applicable, the type of motor vehicle for which the applicant seeks to be licensed;

d. He is not subject to any disqualification, suspension, revocation or cancellation of his driving privileges;

e. He does not have more than one driver's license;

3. Other certifications required by the Department;

4. Any evidence required by the Department to establish proof of identity, citizenship or lawful permanent residency, domicile, and social security number notwithstanding the provisions of § 46.2-328.1 and pursuant to 49 C.F.R. Part 383;

5. A statement indicating whether (i) the applicant has previously been licensed to drive any type of motor vehicle during the previous 10 years and, if so, all states that licensed the applicant and the dates he was licensed, and (ii) whether or not he has ever been disqualified, or his license suspended, revoked or canceled and, if so, the date of and reason therefor; and

6. An unexpired employment authorization document (EAD) issued by the U.S. Citizenship and Immigration Services (USCIS) or an unexpired foreign passport accompanied by an approved Form I-94 documenting the applicant's most recent admittance into the United States for persons applying for a nondomiciled commercial driver's license or nondomiciled commercial learner's permit.

D. Every application for a commercial driver's license shall include a photograph of the applicant supplied under arrangements made therefor by the Department in accordance with § 46.2-323.

E. The Department shall disqualify any commercial driver for a period of one year when the records of the Department clearly show to the satisfaction of the Commissioner that such person has made a material false statement on any application or certification made for a commercial driver's license or commercial learner's permit. The Department shall take such action within 30 days after discovering such falsification.

F. (For expiration date, see Acts 2019, c. 750, cl. 2) The Department shall review the driving record of any person who applies for a Virginia commercial driver's license or commercial learner's permit, for the renewal or reinstatement of such license or permit or for an additional commercial classification or endorsement, including the driving record from all jurisdictions where, during the previous 10 years, the applicant was licensed to drive any type of motor vehicle. Such review shall include checking the photograph on record whenever the applicant or holder appears in person to renew, upgrade, transfer, reinstate, or obtain a duplicate commercial driver's license or to renew, upgrade, reinstate, or obtain a duplicate commercial learner's permit. If appropriate, the Department shall incorporate information from such other jurisdictions' records into the applicant's Virginia driving record, and shall make a notation on the applicant's driving record confirming that such review has been completed and the date it was completed. The Department's review shall include research through the Commercial Driver License Information System established pursuant to the Commercial Motor Vehicle Safety Act and the National Driver Register Problem Driver Pointer System in addition to the driver record maintained by the applicant's previous jurisdictions of licensure. This research shall be completed prior to the issuance, renewal, transfer, or reinstatement of a commercial driver's license or additional commercial classification or endorsement.

The Department shall verify the name, date of birth, and social security number provided by the applicant with the information on file with the Social Security Administration for initial issuance of a commercial learner's permit or transfer of a commercial driver's license from another state. The Department shall make a notation in the driver's record confirming that the necessary verification has been completed and noting the date it was done. The Department shall also make a notation confirming that proof of citizenship or lawful permanent residency has been presented and the date it was done.

F. (For effective date, see Acts 2019, c. 750, cl. 2) The Department shall review the driving record of any person who applies for a Virginia commercial driver's license or commercial learner's permit, for the renewal or reinstatement of such license or permit or for an additional commercial classification or endorsement, including the driving record from all jurisdictions where, during the previous 10 years, the applicant was licensed to drive any type of motor vehicle. Such review shall include checking the photograph on record whenever the applicant or holder appears in person to renew, upgrade, transfer, reinstate, or obtain a duplicate commercial driver's license or to renew, upgrade, reinstate, or obtain a duplicate commercial learner's permit. If appropriate, the Department shall incorporate information from such other jurisdictions' records into the applicant's Virginia driving record, and shall make a notation on the applicant's driving record confirming that such review has been completed and the date it was completed. The Department's review shall include (i) research through the Commercial Driver License Information System established pursuant to the Commercial Motor Vehicle Safety Act and the National Driver Register Problem Driver Pointer System in addition to the driver record maintained by the applicant's previous jurisdictions of licensure and (ii) requesting information from the Drug and Alcohol Clearinghouse in accordance with 49 C.F.R. § 382.725. This research shall be completed prior to the issuance, renewal, transfer, or reinstatement of a commercial driver's license or additional commercial classification or endorsement.

The Department shall verify the name, date of birth, and social security number provided by the applicant with the information on file with the Social Security Administration for initial issuance of a commercial learner's permit or transfer of a commercial driver's license from another state. The Department shall make a notation in the driver's record confirming that the necessary verification has been completed and noting the date it was done. The Department shall also make a notation confirming that proof of citizenship or lawful permanent residency has been presented and the date it was done.

G. Every new applicant for a commercial driver's license or commercial learner's permit, including

any person applying for a commercial driver's license or permit after revocation of his driving privileges, who certifies that he will operate a commercial motor vehicle in non-excepted interstate or intrastate commerce shall provide the Department with an original or certified copy of a medical examiner's certificate prepared by a medical examiner as defined in 49 C.F.R. § 390.5. Upon receipt of an appropriate medical examiner's certificate, the Department shall post a certification status of "certified" on the record of the driver on the Commercial Driver's License Information System. Any new applicant for a commercial driver's license or commercial learner's permit who fails to comply with the requirements of this subsection shall be denied the issuance of a commercial driver's license or commercial learner's permit by the Department.

H. Every existing holder of a commercial driver's license or commercial learner's permit who certifies that he will operate a commercial motor vehicle in non-excepted interstate or intrastate commerce shall provide the Department with an original or certified copy of a medical examiner's certificate prepared by a medical examiner as defined in 49 C.F.R. § 390.5. Upon receipt of an appropriate medical examiner's certificate, the Department shall post a certification status of "certified" and any other necessary information on the record of the driver on the Commercial Driver's License Information System. If an existing holder of a commercial driver's license fails to provide the Department with a medical certificate as required by this subsection, the Department shall post a certification status of "noncertified" on the record of the driver on the Commercial Driver's License Information System and initiate a downgrade of his commercial driver's license as defined in 49 C.F.R. § 383.5.

I. Any person who provides a medical certificate to the Department pursuant to the requirements of subsections G and H shall keep the medical certificate information current and shall notify the Department of any change in the status of the medical certificate. If the Department determines that the medical certificate is no longer valid, the Department shall initiate a downgrade of the driver's commercial driver's license as defined in 49 C.F.R. § 383.5.

J. If the Department receives notice that the holder of a commercial driver's license has been issued a medical variance as defined in 49 C.F.R. § 390.5, the Department shall indicate the existence of such medical variance on the commercial driver's license document of the driver and on the record of the driver on the Commercial Driver's License Information System using the restriction code "V."

K. Any holder of a commercial driver's license who has been issued a medical variance shall keep the medical variance information current and shall notify the Department of any change in the status of the medical variance. If the Department determines that the medical variance is no longer valid, the Department shall initiate a downgrade of the driver's commercial driver's license as defined in 49 C.F.R. § 383.5.

L. Any applicant applying for a hazardous materials endorsement must comply with Transportation Security Administration requirements in 49 C.F.R. Part 1572. A lawful permanent resident of the United States requesting a hazardous materials endorsement must additionally provide his U.S. Citizenship and Immigration Services (USCIS) alien registration number.

M. Notwithstanding the provisions of § 46.2-208, the Department may release to the FMCSA medical information relating to the issuance of a commercial driver's license or a commercial learner's permit collected by the Department pursuant to the provisions of subsections F, G, H, I, and J.

§ 46.2-341.14. (For expiration date, see Acts 2019, c. 750, cl. 3) Testing requirements for commercial driver's license; behind-the-wheel and knowledge examinations.

A. The Department shall conduct an examination of every applicant for a commercial driver's license, which examination shall comply with the minimum federal standards established pursuant to the federal Commercial Motor Vehicle Safety Act. The examination shall be designed to test the vision, knowledge, and skills required for the safe operation of the class and type of commercial motor vehicle for which the applicant seeks a license.

B. An applicant's skills test shall be conducted in a vehicle that is representative of or meets the description of the class of vehicle for which the applicant seeks to be licensed. In addition, applicants who seek to be licensed to drive vehicles with air brakes, passenger-carrying vehicles, or school buses must take the skills test in a vehicle that is representative of such vehicle type. Such vehicle shall be furnished by the applicant and shall be properly licensed, inspected and insured.

C. The Commissioner may designate such persons as he deems fit, including private or governmental entities, including comprehensive community colleges in the Virginia Community College System, to administer the knowledge and skills tests required of applicants for a commercial driver's license. Any person so designated shall comply with all statutes and regulations with respect to the administration of such tests.

The Commissioner shall require all state and third party test examiners to successfully complete a formal commercial driver's license test examiner training course and examination before certifying them to administer commercial driver's license knowledge and skills tests. All state and third party test examiners shall complete a refresher training course and examination every four years to maintain their commercial driver's license test examiner certification. The refresher training course shall comply with 49 C.F.R. § 384.228. At least once every two years, the Department shall conduct covert and overt monitoring of examinations performed by state and third party commercial driver's license test

examiners.

The Commissioner shall require a nationwide criminal background check of all test examiners at the time of hiring or prior to certifying them to administer commercial driver's license testing. The Commissioner shall complete a nationwide criminal background check for any state or third party test examiners who are current examiners and who have not had a nationwide criminal background check.

The Commissioner shall revoke the certification to administer commercial driver's license tests for any test examiner who (i) does not successfully complete the required refresher training every four years or (ii) does not pass the required nationwide criminal background check. Criteria for not passing the criminal background check include but are not limited to having a felony conviction within the past 10 years or any conviction involving fraudulent activities.

D. Every applicant for a commercial driver's license who is required by the Commissioner to take a vision test shall either (i) appear before a license examiner of the Department of Motor Vehicles to demonstrate his visual acuity and horizontal field of vision; or (ii) submit with his application a copy of the vision examination report which was used as the basis for such examination made within 90 days of the application date by an ophthalmologist or optometrist. The Commissioner may, by regulation, determine whether any other visual tests will satisfy the requirements of this title for commercial drivers.

E. No person who fails the behind-the-wheel examination for a commercial driver's license administered by the Department three times shall be permitted to take such examination a fourth time until he successfully completes, subsequent to the third examination failure, the in-vehicle component of driver instruction at a driver training school licensed under Chapter 17 (§ 46.2-1700 et seq.) or a comprehensive community college in the Virginia Community College System, or a comparable course approved by the Department or the Department of Education. In addition, no person who fails the general knowledge examination for a commercial driver's license administered by the Department three times shall be permitted to take such examination a fourth time until he successfully completes, subsequent to the third examination failure, the knowledge component of driver instruction at a driver training school licensed under Chapter 17 (§ 46.2-1700 et seq.) or a comprehensive community college in the Virginia Community College System, or a comparable course approved by the Department or the Department of Education. All persons required to attend a driver training school, a comprehensive community college, or a comparable course pursuant to this section shall be required, after successful completion of necessary courses, to have the applicable examination administered by the Department.

Comprehensive community colleges offering courses pursuant to this section shall meet course curriculum requirements established and made available by the Department and be comparable to the curriculum offered by Class A licensed schools. A course curriculum meeting the established requirements shall be submitted to the Department and shall be approved by the Department prior to the beginning of course instruction.

The Department shall provide and update the list of course curriculum requirements from time to time, as deemed appropriate and necessary by the Department. The Department shall notify the affected schools and comprehensive community colleges if new relevant topics are added to the course curriculum. Schools and comprehensive community colleges shall have 45 calendar days after such notice is issued to update their course curriculum and to certify to the Department in a format prescribed by the Department that the school or comprehensive community college has added the new topics to the course curriculum.

The provisions of this subsection shall not apply to persons placed under medical control pursuant to § 46.2-322.

F. Knowledge tests may be administered in written form, verbally, or in automated format and can be administered in a foreign language, provided no interpreter is used in administering the test.

G. Interpreters are prohibited during the administration of the skills tests. Applicants must be able to understand and respond to verbal commands and instructions in English by a skills test examiner. Neither the applicant nor the examiner may communicate in a language other than English during the skills test.

H. Skills tests may be administered to an applicant who has taken training in the Commonwealth at a driver training school licensed under Chapter 17 (§ 46.2-1700 et seq.) or a comprehensive community college in the Virginia Community College System, or a comparable course approved by the Department or the Department of Education, and is to be licensed in another state. Such test results shall be electronically transmitted directly from the Commonwealth to the licensing state in an efficient and secure manner. The Department may charge a fee of not more than $85 to any such applicant.

I. The Department shall accept the results of skills tests administered to applicants by any other state in fulfillment of the applicant's testing requirements for commercial licensure in the Commonwealth.

J. The Department may administer skills performance evaluations in accordance with its agreement with the FMCSA. Notwithstanding the provisions of § 46.2-208, any medical information that is collected as part of the evaluation may be released to and inspected by the FMCSA.

§ 46.2-341.14. (For effective date, see Acts 2019, c. 750, cl. 3) Testing requirements for commercial driver's license; behind-the-wheel and knowledge examinations.

A. The Department shall conduct an examination of every applicant for a commercial driver's license,

which examination shall comply with the minimum federal standards established pursuant to the federal Commercial Motor Vehicle Safety Act. The examination shall be designed to test the vision, knowledge, and skills required for the safe operation of the class and type of commercial motor vehicle for which the applicant seeks a license.

No skills test shall be conducted by the Department for a first-time applicant for a Class A or Class B commercial driver's license, a passenger endorsement, or a school bus endorsement, or knowledge test for a first-time applicant for a hazardous materials endorsement, until (i) the Department has verified that the applicant has completed the appropriate entry-level driver training course administered by a training provider required for that skills or knowledge test, if the applicant is so required, or (ii) the applicant has certified that he is exempted from such requirement under § 46.2-341.12.

B. An applicant's skills test shall be conducted in a vehicle that is representative of or meets the description of the class of vehicle for which the applicant seeks to be licensed. In addition, applicants who seek to be licensed to drive vehicles with air brakes, passenger-carrying vehicles, or school buses must take the skills test in a vehicle that is representative of such vehicle type. Such vehicle shall be furnished by the applicant and shall be properly licensed, inspected and insured.

C. The Commissioner may designate such persons as he deems fit, including private or governmental entities, including comprehensive community colleges in the Virginia Community College System, to administer the knowledge and skills tests required of applicants for a commercial driver's license. Any person so designated shall comply with all statutes and regulations with respect to the administration of such tests.

The Commissioner shall require all state and third party test examiners to successfully complete a formal commercial driver's license test examiner training course and examination before certifying them to administer commercial driver's license knowledge and skills tests. All state and third party test examiners shall complete a refresher training course and examination every four years to maintain their commercial driver's license test examiner certification. The refresher training course shall comply with 49 C.F.R. § 384.228. At least once every two years, the Department shall conduct covert and overt monitoring of examinations performed by state and third party commercial driver's license test examiners.

The Commissioner shall require a nationwide criminal background check of all test examiners at the time of hiring or prior to certifying them to administer commercial driver's license testing. The Commissioner shall complete a nationwide criminal background check for any state or third party test examiners who are current examiners and who have not had a nationwide criminal background check.

The Commissioner shall revoke the certification to administer commercial driver's license tests for any test examiner who (i) does not successfully complete the required refresher training every four years or (ii) does not pass the required nationwide criminal background check. Criteria for not passing the criminal background check include but are not limited to having a felony conviction within the past 10 years or any conviction involving fraudulent activities.

D. Every applicant for a commercial driver's license who is required by the Commissioner to take a vision test shall either (i) appear before a license examiner of the Department of Motor Vehicles to demonstrate his visual acuity and horizontal field of vision or (ii) submit with his application a copy of the vision examination report that was used as the basis for such examination made within 90 days of the application date by an ophthalmologist or optometrist. The Commissioner may, by regulation, determine whether any other visual tests will satisfy the requirements of this title for commercial drivers.

E. ~~No person who fails the behind-the-wheel examination for a commercial driver's license administered by the Department three times shall be permitted to take such examination a fourth time until he successfully completes, subsequent to the third examination failure, the in-vehicle component of driver instruction at a driver training school licensed under Chapter 17 (§ 46.2-1700 et seq.) or a comprehensive community college in the Virginia Community College System, or a comparable course approved by the Department or the Department of Education. In addition, no person who fails the general knowledge examination for a commercial driver's license administered by the Department three times shall be permitted to take such examination a fourth time until he successfully completes, subsequent to the third examination failure, the knowledge component of driver instruction at a driver training school licensed under Chapter 17 (§ 46.2-1700 et seq.) or a comprehensive community college in the Virginia Community College System, or a comparable course approved by the Department or the Department of Education. All persons required to attend a driver training school, a comprehensive community college, or a comparable course pursuant to this section shall be required, after successful completion of necessary courses, to have the applicable examination administered by the Department.~~

~~Comprehensive community colleges offering courses pursuant to this section shall meet course curriculum requirements established and made available by the Department and be comparable to the curriculum offered by Class A licensed schools. A course curriculum meeting the established requirements shall be submitted to the Department and shall be approved by the Department prior to the beginning of course instruction.~~

~~The Department shall provide and update the list of course curriculum requirements from time to time, as deemed appropriate and necessary by the Department. The Department shall notify the affected~~

~~schools and comprehensive community colleges if new relevant topics are added to the course curriculum. Schools and comprehensive community colleges shall have 45 calendar days after such notice is issued to update their course curriculum and to certify to the Department in a format prescribed by the Department that the school or comprehensive community college has added the new topics to the course curriculum.~~

~~The provisions of this subsection shall not apply to persons placed under medical control pursuant to § 46.2-322.~~

~~F.~~ Knowledge tests may be administered in written form, verbally, or in automated format and can be administered in a foreign language, provided no interpreter is used in administering the test.

~~G.~~ *F.* Interpreters are prohibited during the administration of the skills tests. Applicants must be able to understand and respond to verbal commands and instructions in English by a skills test examiner. Neither the applicant nor the examiner may communicate in a language other than English during the skills test.

~~H.~~ *G.* Skills tests may be administered to an applicant who has taken training in the Commonwealth at a driver training school licensed under Chapter 17 (§ 46.2-1700 et seq.) or a comprehensive community college in the Virginia Community College System, or a comparable course approved by the Department or the Department of Education, and is to be licensed in another state. Such test results shall be electronically transmitted directly from the Commonwealth to the licensing state in an efficient and secure manner. The Department may charge a fee of not more than $85 to any such applicant.

~~I.~~ *H.* The Department shall accept the results of skills tests administered to applicants by any other state in fulfillment of the applicant's testing requirements for commercial licensure in the Commonwealth.

~~J.~~ *I.* The Department may administer skills performance evaluations in accordance with its agreement with the FMCSA. Notwithstanding the provisions of § 46.2-208, any medical information that is collected as part of the evaluation may be released to and inspected by the FMCSA.

§ 46.2-341.14:01. Military third party testers and military third party examiners; substitute for knowledge and driving skills tests for drivers with military commercial motor vehicle experience.

A. Pursuant to § 46.2-341.14, the Commissioner ~~shall~~ *may* permit military bases that have entered into an agreement with the Department to serve as third party testers in administering state knowledge and skills tests for issuing commercial driver's licenses. Military third party testers and military third party examiners shall comply with the requirements set forth in §§ 46.2-341.14:1 through 46.2-341.14:9 with respect to knowledge and skills tests.

B. Pursuant to 49 C.F.R. § 383.77, the Commissioner ~~shall~~ *may* waive the driving skills test required by 49 C.F.R. § 383.23 and as specified in 49 C.F.R. § 383.113 for a commercial motor vehicle driver with military commercial motor vehicle experience who is currently licensed at the time of his application for a commercial driver's license and substitute an applicant's driving record in combination with certain driving experience for the skills test.

C. To obtain a skills test waiver, the following conditions and limitations must be met:

1. An applicant must certify that, during the two-year period immediately prior to applying for a commercial driver's license, he:

a. Has not simultaneously held more than one license except for a military license;

b. Has not had any license suspended, revoked, canceled, or disqualified;

c. Has not had any convictions for any type of motor vehicle for the disqualifying offenses contained in this article;

d. Has not had more than one conviction for any type of motor vehicle for serious traffic violations contained in this article; and

e. Has not had any conviction for a violation of military, state, or local law relating to motor vehicle traffic control, other than a parking violation, arising in connection with any traffic crash and has no record of a crash in which he was at fault; and

2. An applicant must provide evidence and certify that he:

a. Is regularly employed or was regularly employed within the last year or any other period authorized by the FMCSA in a military position requiring operation of a commercial motor vehicle;

b. Was exempted from the commercial driver's license requirements in 49 C.F.R. § 383.3(c); and

c. Was operating a vehicle representative of the commercial motor vehicle the driver applicant operates, or expects to operate, for at least the two years immediately preceding discharge from the military.

D. The Commissioner ~~shall~~ *may* waive the knowledge test for certain current or former military service members applying for a commercial learner's permit or commercial driver's license as permitted by 49 C.F.R. § 383.77, provided that such current or former military service member meets the conditions and limitations provided by 49 C.F.R. § 383.77.

E. The Commissioner ~~shall~~ *may* waive the knowledge test and driving skills test for certain current or former military service members applying for certain endorsements as permitted by 49 C.F.R. § 383.77, provided that such current or former military service member meets the conditions and limitations provided by 49 C.F.R. § 383.77.

§ 46.2-1708. (For effective date, see Acts 2019, c. 750, cl. 3) Licenses required for school and instructors.

A. If a Class A driver training school elects to provide entry-level driver training to driver trainees, that Class A driver training school shall not provide such training until it has (i) been licensed to provide training in the Commonwealth pursuant to this section~~;~~ *and* (ii) ~~electronically transmitted an Entry-Level Driver Training Provider Registration Form through the federal Training Provider Registry website, maintained by FMCSA, which attests under the penalty of perjury that the training provider meets all of the applicable requirements under 49 C.F.R. § 380.703 for every campus or training location to obtain a unique Training Provider Registry number; and (iii)~~ provided the Commissioner with its unique Training Provider Registry number issued by FMCSA pursuant to 49 C.F.R. § 380.703 in a form prescribed by the Department.

B. If a Class A driver training school elects to provide entry-level driver training, upon application for a Class A license by such driver training school the applicant driver training school shall also provide evidence that:

1. The curriculum used for theory instruction and behind-the-wheel training complies with the curriculum requirements prescribed by the Department;

2. The facilities used for entry-level driver training for both theory instruction and behind-the-wheel training comply with all federal and state safety requirements;

3. The instructors employed by the applicant driver training school are licensed under this section;

4. The applicant driver training school (i) uses written assessments that comply with the requirements prescribed by the Department to determine the driver trainee's proficiency in the knowledge objectives of each unit of instruction in the curriculum and (ii) requires driver trainees to achieve an overall minimum score of 80 percent for passage of the theory instruction portion of the course; and

5. The applicant driver training school instructors evaluate and document the driver trainee's proficiency in the behind-the-wheel skills in accordance with the curriculum requirements prescribed by the Department.

C. The Commissioner shall not license a behind-the-wheel instructor or theory instructor unless the applicant provides evidence that his commercial driver's license has not been disqualified, canceled, suspended, or revoked due to any of the disqualifying offenses identified in 49 C.F.R. § 383.51, unless his commercial driver's license was reinstated more than two years prior to the application date, and that he either:

1. Currently holds a commercial driver's license of the same class or higher with all endorsements necessary to operate the commercial motor vehicle for which training will be provided and has at least two years of experience driving a commercial motor vehicle requiring a commercial driver's license of the same or higher class or the same endorsement; or

2. Currently holds a commercial driver's license of the same class or higher with all endorsements necessary to operate the commercial motor vehicle for which training will be provided, and has at least two years of experience as a behind-the-wheel commercial motor vehicle instructor.

D. The Commissioner may issue an order suspending, revoking, cancelling, or denying renewal of a training provider's license, certification, or authorization to provide training effective immediately if the order is based upon the removal of the school from the federal Training Provider Registry pursuant to 49 C.F.R. § 380.723. Notice of such order shall be in writing and mailed to the training provider by registered mail to the address as shown on the training provider's most recent application and shall be considered served when mailed. Upon receipt of a request for a hearing appealing such order, the training provider shall be afforded the opportunity for a hearing as soon as practicable, but in no case later than 30 days from receipt of the hearing request. The order shall remain in effect pending the outcome of the hearing.

§ 46.2-1709. (For effective date, see Acts 2019, c. 750, cl. 3) Business and equipment requirements.

A. A training provider shall:

1. Permit the Department and FMCSA to conduct random examinations, inspections, and audits of its records, facilities, and operations that relate to the entry-level driver training program without prior notice;

2. Use vehicles that comply with all federal and state safety requirements and are in the same group and type that the driver trainees intend to operate for the commercial driver's license skills test;

3. Require all driver trainees to certify that they will comply with state and federal laws and regulations and local laws related to alcohol and controlled substances testing, age requirements for driving commercial vehicles, medical certifications, licensing, and driver records;

4. Verify that all accepted behind-the-wheel applicants hold a valid commercial learner's permit or commercial driver's license;

5. Electronically transmit, by midnight of the second business day after the driver trainee completes the training, the driver trainee's certification information through the federal Training Provider Registry website including:

a. Driver-trainee name, license or permit number, and state of licensure;

b. Type of class or endorsement training the driver trainee completed;

c. Total number of clock hours the driver trainee spent to complete the behind-the-wheel training, if applicable;

d. Name of the training provider and its unique Training Provider Registry number; and

e. Date or dates of successful training completion.

6. Update the Entry-Level Driver Training Provider Registration Form once every two years;

7. ~~Electronically~~ ~~report~~ *Report* to FMCSA changes to key information on the Entry-Level Driver Training Provider Registration Form within 30 days of such changes;

8. Maintain documentation of the school's licensure, registration, certification or authorization to provide training in Virginia;

9. Ensure that all records specified in § 46.2-1710 are available to FMCSA or its authorized representative, upon request, and provide such records to FMCSA within 48 hours of such request; and

10. Administer both the range and public road portion of the behind-the-wheel curriculum.

B. If a training provider receives notice of proposed removal from FMCSA pursuant to 49 C.F.R. § 380.723, the training provider shall (i) notify all current driver trainees and driver trainees scheduled for future training of such receipt and (ii) provide a copy of the notice to the Department within one business day of receiving such notice.

C. If a training provider is removed from the federal Training Provider Registry by FMCSA pursuant to 49 C.F.R. § 380.723, such training provider shall (i) cease providing entry-level driver training upon receipt and in accordance with FMCSA guidance and (ii) provide the Department with a copy of the notice of proposed removal within one business day of receipt. No training conducted after the date of removal from the federal Training Provider Registry shall be considered valid.

2. That the provisions of § 46.2-341.14 of the Code of Virginia, as it may become effective, as amended by this act, shall become effective at such time as the Federal Motor Carrier Safety Administration has made available to the Department of Motor Vehicles the information necessary to comply with the provisions of the Minimum Training Requirements for Entry-level Commercial Motor Vehicle Operators Rule codified in 49 C.F.R. Parts 383 and 384, as amended, as certified by the Secretary of Transportation.

3. That the second and third enactments of Chapter 750 of the Acts of Assembly of 2019 are amended and reenacted as follows:

2. That the provision in § 46.2-341.12 relating to the Drug and Alcohol Clearinghouse shall become effective ~~the later of February 6, 2020, or~~ at such time as the Federal Motor Carrier Safety Administration ~~makes the Drug and Alcohol Clearinghouse available to~~ *requires* the Department of Motor Vehicles *to request information from the Drug and Alcohol Clearinghouse,* as certified by the Secretary of Transportation.

3. That the provisions of §§ 46.2-324.1, 46.2-341.4, *and* 46.2-341.12, *and subsection A of § 46.2-341.14* relating to eligibility for application to the Department for a Class A or Class B commercial driver's license or a school bus, passenger, or hazardous materials endorsement, ~~46.2-341.14,~~ *and §§* 46.2-341.14:1, 46.2-1700, 46.2-1708, 46.2-1709, 46.2-1710, and 46.2-1711 shall become effective ~~the later of February 7, 2020, or~~ at such time as the Federal Motor Carrier Safety Administration has made available to the Department of Motor Vehicles the information necessary to comply with such provisions ~~through the Commercial Driver's License Information System,~~ as certified by the Secretary of Transportation.